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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,296	01/05/2001	Fumio Tajima	381NP/43816CO	3393

7590 01/24/2003

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EXAMINER

NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/754,296Applicant(s)
Tajima et alExaminer
Nguyen, Tran NArt Unit
2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Dec 23, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see NOTE below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 26 and 27
- Claim(s) objected to: _____
- Claim(s) rejected: 18-25
- Claim(s) withdrawn from consideration: _____
8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

NGUYEN, TRAN N
PRIMARY EXAMINER
ART UNIT 2834

PJ'436 (and other cited references) shows that rotors having permanent magnets (PMs) alternately arranged in polarities are well known in the art. As stated in the final Office Action's 35 USC 103 rejection, the rationale for applying the JP'436 in the rejection is the teaching of a well-know alternate polarity arrangement for permanent magnets in a rotor; thus, the combination of JP'050 in view of JP'436 discloses the claimed invention, as recited in claims 18-19.

The applicant argues that the rejection is the use of hindsight because JP'436 does not disclose a rotor having magnetic air gap provide between the rotor main body portion of the adjacent magnets. These features, i.e., a rotor having magnetic air gap provide between the rotor main body portion of the adjacent magnets, is discloses in the JP'050. If JP'436 were disclosed with these features, the rejection might probably be a 35 USC 102 rejection. Thus, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made (*in this case the knowledge of arranging the PMs alternately in polarities is well known, as taught by JP'436 and cited prior-art*) and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

